FARAD CONTINUATION SHEET No.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

Civil Application No. 5626/2007
(Nandakishore Shrinarayan Agrawal **VERSUS** Ratnibai Bachulal Padia **)**

Office Notes, Office Memoranda of Coram, appearances, Court's orders of directions and Registrar's orders | Court's or Judge's orders

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Mr. Mohta, counsel for the applicant.

CORAM : Smt. Vasanti A. Naik, J.
DATE : 18th September, 2007.

Heard the learned counsel for the applicant.

For the reasons stated in the civil application, the prayer made in the civil application is granted and the civil application is allowed and disposed of.

M. C.A. ST. NO.3010/2007.

By this civil application, the applicant seeks permission to set aside the order passed by the Registrar refusing the registration of the Second Appeal bearing St. No.21438/2005 for non removal of office objection no.5 and 9. It is submitted on behalf of the applicant that during the pendency of the first appeal, Kashibai, one of the respondents had died. However, in stead of showing Kashibai as dead in the title clause of the judgment, one Smt.Ratnibai was shown to be dead. It is submitted that Smt.Ratnibai is alive and hence, in view of this position, the title clause of the appeal memo of the second appeal

was correctly drafted showing Kashibai as dead and Smt.Ratnibai as living. He, therefore, submits that the office ought to have been convinced that the office objection to the aforesaid effect could not subsist.

The submission made on behalf of the counsel for the applicant needs to be upheld. The Registry ought to have considered the aforesaid position and ought to have held that the office objection did not survive. It is, therefore, held that the office objection to the aforesaid effect would not survive as the title clause in the appeal memo is rightly drafted. The counsel for the appellant submits that the second office objection could be removed immediately, and therefore, it is necessary to allow the miscellaneous civil application and restore the second appeal to file. In view of the statement made on behalf of the appellant, it is necessary to restore the second appeal to file. The appellant is, therefore, granted a week's time to remove the other office objection.

The miscellaneous civil application is allowed on the aforesaid terms and disposed of.

JUDGE

APTE